

SAPC-19628

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**\*OGC Has Reviewed\***

20 September 1957

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MEMORANDUM FOR: [REDACTED]

Contracting Officer

SUBJECT : Renegotiation of AQUATONE Contracts

REFERENCE : SAPC 19291 dated 12 September 1957

1. Referenced memorandum, together with attachment, which are returned herewith, request our views as to the applicability of the Renegotiation Act of 1951 to Contract NY-A-501 and contracts A101, A102, and A103. You note that we had advised you in April 1956 that the Renegotiation Act would not apply to Contract SP-1913 which was for AQUATONE procurement and utilized AQUATONE funds, while the subject contracts involve the commingling of AQUATONE funds with Air Force funds and, in some instances, Air Force funds with Navy funds.

2. Our April 1956 memorandum (SAPC 5778) recited that the basis for our ruling therein to the effect that the Act would not apply was that by the terms of the Act, as amended (50 USCA section 1211 et seq.), it applies only to all contracts and related contracts entered into by those departments named in the Act or by the President by Executive Order issued pursuant thereto and that this Agency was not among those named either by the Act or by Executive Order. A current review likewise fails to reveal that this Agency has been so named and we would think, therefore, that our April 1956 opinion would be equally accurate today with respect to Agency contracts utilizing Agency funds for Agency procurement.

3. We would think moreover that the fact that the procurement for another department, including departments which are named in the Renegotiation Act, would not cause a contrary conclusion in the AQUATONE situation. The language of the appropriate provision of the Renegotiation Act (50 USCA section 1212) provides that the Act shall apply "to all contracts with the departments" designated by either of the required manners. The language does not hinge on the purpose of the contract nor on the name of the agency or department

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for which the procurement is undertaken, nor on the source of the funds. Further, since the decision pursuant to which AQUATONE has undertaken procurement for the other departments was and is a corollary of a decision not to permit the departments to procure the equipment for themselves, the current program is an adjunct of AQUATONE procurement undertaken, as the DCI has recited, in the national interest. It is our opinion, therefore, that these additional contracts, and the subcontracts under them, are not subject to the Renegotiation Act.

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Assistant General Counsel

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